

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
MISSOULA DIVISION

**FILED**  
**NOV 16 2017**  
Clerk, U.S. Courts  
District Of Montana  
Missoula Division

TRACEY R. GODFREY,

Petitioner,

vs.

UNITED STATES DISTRICT COURT,

Respondent.

CV 17-131-M-DLC-JCL

ORDER

United States Magistrate Judge Jeremiah C. Lynch entered his Order and Findings and Recommendations in this case on September 21, 2017, recommending that this matter be dismissed for lack of subject matter jurisdiction. (Doc. 3 at 4.) Plaintiff Tracey R. Godfrey ("Godfrey") timely filed objections to the Findings and Recommendations. (Doc. 4.) Consequently, Godfrey is entitled to a de novo review of those findings and recommendations to which he specifically objects. 28 U.S.C. § 636(b)(1)(C). This Court reviews for clear error those findings and recommendations to which no party objects. *See McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981); *Thomas v. Arn*, 474 U.S. 140, 149 (1985). Clear error exists if the Court is

left with a “definite and firm conviction that a mistake has been committed.”

*United States v. Syrax*, 235 F.3d 422, 427 (9th Cir. 2000) (citations omitted).

Judge Lynch concluded, and this Court agrees, that dismissal is appropriate because the federal mandamus statute applies only to federal officers and employees. (Doc. 3 at 3.) Consequently, Godfrey cannot obtain a federal writ of mandamus to compel state prosecutors or officials to produce the requested documents. Godfrey’s objection fails to present any new evidence or law and, instead, reiterates his claim that the federal mandamus statute is applicable to the State of Montana because Montana is “an agency of the United States.” (Doc. 4 at 1.) Godfrey’s unsupported and meritless argument fails to reference Judge Lynch’s Findings and Recommendations, which flatly and correctly rejects this argument. (Doc. 3 at 3 (quoting *Demos v. U.S. District Court*, 925 F.2d 1160, 1161–62 (9th Cir. 1991).) Having failed to specifically object to any of Judge Lynch’s Finding and Recommendations, this Court reviews the record for clear error. *See McDonnell Douglas Corp.*, 656 F.2d at 1313. Finding none,

IT IS ORDERED that Judge Lynch’s Findings and Recommendations (Doc. 3) are ADOPTED IN FULL. Godfrey’s Petition (Doc. 1) is DISMISSED for lack of subject matter jurisdiction.

IT IS FURTHER ORDERED that the Clerk of Court will enter by separate

document a judgment in favor of Respondents and against Petitioner.

IT IS FURTHER ORDERED that a certificate of appealability is DENIED.

DATED this 16<sup>th</sup> day of November, 2017.

A handwritten signature in black ink, reading "Dana L. Christensen". The signature is written in a cursive style with a large initial "D".

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Dana L. Christensen, Chief Judge  
United States District Court